

REMARKS

Claims 1-25 are pending in the application, are rejected, and are at issue. The above amendments to the claims are intended to provide proper antecedent basis in response to the claim rejection under 35 U.S.C. §112. These amendments are not being made to narrow the patent scope. Entry of the Amendment and withdrawal of the rejection is requested.

With respect to the rejection of the claims under 35 U.S.C. §103, the claims have been more than twice rejected. Applicants will appeal from the decision of the Examiner to the Board of Patent Appeals & Interferences by filing a Notice of Appeal and the required fee within the time period for a reply with respect to these rejections.

Interview Summary

On May 11, 2005, Examiner Michalski telephoned applicant's undersigned attorney indicating that a non-final rejection of the claims would be entered. An unofficial copy of the action was faxed to applicant's undersigned attorney on this same date. This unofficial action included a new ground of rejection based on a Lonstein et al. article in view of a Lampen article from Belden Electronics ("Lampen reference"). In a subsequent telephone conference, applicant's attorney pointed out to the Examiner that the Lampen reference bears a copyright date of 2001 and as such is not prior art. There is a statement that reads "Originally Presented to the Society of Motion Picture and Television Engineers Convention, Sydney, Australia, on Tuesday, July 1, 1997". However, it is not apparent if the actual paper was given at that date.

On May 20, 2005, applicant's undersigned attorney conducted a further interview with Examiner Michalski to discuss the different size of wire used in the Lonstein et al. article relative to category 5 cable and the wire described in the Lampen reference. While the Lonstein et al. article does not discuss wire size, the commercial IMP system uses 18 gauge wire. Category 5 cable typically uses 24 gauge wire. 18 gauge wire has an outer diameter approximately double that of 24 gauge wire. The resistance of 24 gauge wire is about four times that of 18 gauge wire. Attached is a print out from a website for Alpha Wire Company providing technical data for AWG wire sizes.

Applicant's attorney also pointed out the fact that the Lampen reference at the passage referenced in the action does not disclose a category 5 cable providing improved impedance tolerance and improved attenuation. In fact, the Lampen reference is describing cables which extend beyond category 5. No agreement was reached with respect to the claim but the Examiner requested that applicant submit evidence regarding wire size relative to the Lonstein et al. article.

On May 23, 2005, applicant's attorney faxed to Examiner Michalski a proposed Amendment for discussion only along with an exhibit in the form of the first five pages of an Infinite Modular Power System catalog relating to the same system described in the Lonstein et al. article. This catalog on page 4 and page 5 identifies that the components are connected together with standard 18 gauge three conductor cable. Submitted herewith is a clean copy of the entire catalog, including the pages faxed to the Examiner.

On May 25, 2005, in a further telephone interview, Examiner Michalski stated that the proposed Amendment would not place the application in condition for allowance. The proposed Amendment has not been entered.

The Interview Summary form PTOL-413 mailed on June 3, 2005, discussing the May 23, 2005 interview indicates that no exhibit was shown, yet attaches a copy of the IMP catalog. The interview summary form is incorrect.

On May 25, 2005, applicant's attorney faxed to the Examiner a technical paper entitled Non-Data Applications for Category 5 Cable dated September 28, 1999, and authored by Steve Lampen of Belden CDT Electronics Division ("Lampen article"). Applicant assumes that this is the same author of the cited Lampen reference. The Lampen article was not provided as prior art, but rather evidence of the state of the art and to clarify the teachings of the Lampen reference.

On May 27, 2005, applicant's undersigned attorney conducted a further interview with Examiner Michalski. The Examiner initially stated that the rejection would not be withdrawn. Applicant's attorney again pointed out that the fact that power and audio signal could be carried on a three conductor cable using 18 gauge wire did not support the fact that audio signals and power for powering a stereo amplifier could be carried on a category 5 cable. The Lampen reference did not provide any such suggestion. Moreover, the Lampen article included a statement in the paragraph bridging pages 10 and 11 under the "Where Shared Sheath Fails" that "Shared-sheath applications fail where UTP itself fails. The limitations are based on the resistance of 24 AWG pairs. This is obviously why these cables cannot be used for power conductors or speaker cables. These and other similar applications require low resistance." As such, applicant's attorney pointed out that contrary to the statements in the action, the Lampen article taken together with the Lampen reference in fact teach away from the combination by noting that with category 5 shared sheath cable, the cables cannot be used for power conductors. In further support of this fact is the previously relied on Linn

Knekt reference which used category 5 cable in a distributed audio system. Linn expressly taught away from having power anywhere near a category 5 cable in its distributed audio system. In fact, this is likely the reason that the Linn article is no longer relied on in the rejection.

The Interview Summary form PTOL-413 mailed 6/13/2005 from the May 27 interview indicates that no exhibit was shown, yet attaches a copy of the exhibit. The form is incorrect.

Finally, applicant's attorney pointed out that subsequent to a personal interview with Examiner Michalski and SPE Isen on November 10, 2004, applicant submitted a Declaration of Andrew Goldfinch and a Declaration of Jason Knott providing a strong showing of commercial success. The commercial success was related to the merits of the invention. The commercial success was not related to the particular grounds of rejection. In evaluating an obviousness rejection, objective evidence of non-obviousness must always be taken into account. The Office action ultimately mailed on May 23, 2005, completely ignored this objective evidence. Instead, the action included a statement that applicant's arguments are moot in view of new grounds of rejection. Whether or not the grounds of rejection are new is irrelevant. The objective evidence of non-obviousness must be taken into account. It has not been.

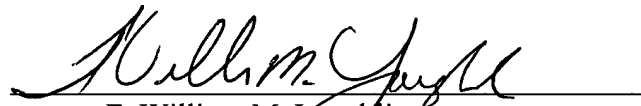
Notwithstanding the above, no agreement was reached. Instead, Examiner Michalski requested that a written response be submitted with arguments for further consideration. Applicant's attorney explained that rather than taking this step, applicant would likely go forward with an appeal. In fact, applicant previously filed an Appeal Brief on July 31, 2003. Subsequently, the rejection was withdrawn and a new rejection issued which has subsequently been withdrawn. After interviewing

the application on November 10, 2004, and submitting an Amendment and the Declarations noted above, on December 3, 2004, a subsequent action was not entered until May 23, 2005, more than 5-1/2 months after filing of the Amendment. The application has now been pending more than 5 years. The delays and repeated entry of new grounds of rejection and ignoring consideration of required evidence have forced applicant to again resurrect the appeal.

Entry of the Amendment for consideration of the amended claims on appeal are requested.

Respectfully submitted,

Date: June 21, 2005


F. William McLaughlin
Reg. No. 32,273

WOOD, PHILLIPS, KATZ,
CLARK AND MORTIMER
Citicorp Center, Suite 3800
500 W. Madison Street
Chicago, IL 60661-2511
(312) 876-1800